

## Remarks

In the present RCE, claims 1-16 are presented for examination.

### **Claim Rejections: 35 USC § 103(a)**

Claims 1 – 3, 8, 9, 14, and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over USPN 6,947,992 (Shachor) in view of USPN 6,490,624 (Sampson). Further, claims 4-7, 10-13, and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Shachor, Simpson, and further in view of USPN 6,405,264 (Jindal). Applicants respectfully traverse.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art cited must teach or suggest all the claim limitations. *See* M.P.E.P. § 2143. For at least the following reasons, Applicants respectfully traverse.

First, the Office Action admits that “Shachor does not explicitly teach the claimed limitation of session state information managing system stores and distributes session state information without servers storing session state information” (see OA at p. 3). Applicants agree with this admission. The Office Action, however, attempts to cure this deficiency with Sampson at column 9, lines 4-59. Applicants respectfully disagree.

Sampson and Shachor use session state information for entirely different and unrelated reasons. Shachor uses session state information “for maintaining session affinity between a client accessing a Web site in a HTTP session and one of a cluster of Web servers on the site” (2: 7-10). By contrast, Sampson uses session state information to determine if a client has authority (i.e., access privileges) to a protected server.

The Office Action is using teachings in Sampson out of context and applying these teachings to Shachor. In other words, the Office Action is picking and choosing unrelated sentences or teachings from Shachor and Sampson with hindsight of Applicants’ invention to allegedly obviate the pending claims. One cannot use hindsight

reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

For at least these reasons, the claims are allowable over Shachor, Sampson, and Jindal.

Second, the Office Action admits that “Shachor does not explicitly teach the claimed limitation of using marshaling, cryptographic and encoding algorithm” (see OA at p. 9). Applicants agree with this admission. The Office Action, however, attempts to cure this deficiency with Jindal at column 6, lines 14-34 and column 7, lines 43-67. Applicants respectfully disagree.

No suggestion or motivation exists combine the teachings of Jindal with Shachor. Applicants state that no teaching or suggestion exists to make the combination because the references are directed to completely different inventions. Shachor is directed to “maintaining session affinity between a client accessing a Web site in a HTTP session and one of a cluster of Web servers on the site” (2: 7-10). **By contrast, Jindal teaches a completely different invention.** Jindal teaches filtering operations in a CORBA system using marshaling and unmarshaling processes. Jindal has nothing whatsoever to do with maintaining session affinity as taught in Shachor.

The Examiner must provide *objective evidence*, rather than subjective belief and unknown authority, of the requisite motivation or suggestion to combine or modify the cited references. *In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Such teaching or suggestion does not exist.

Second, Applicants argue that no teaching or suggestion exists to make the combination because the references are directed to solving completely different problems. In Shachor, the Background section discusses problems associated with maintaining session affinity in large e-commerce sites. **By contrast, Jindal solves completely different problems.** In Jindal, the Background section discusses marshaling and unmarshaling operations in CORBA systems. The problems in CORBA have nothing to do with problems associated with session affinity as taught in Shachor.

To establish a *prima facie* case, the Examiner must not only show that the combination includes *all* of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985).

In light of the completely different inventions and problems being solved in Shachor and Jindal, no suggestion or motivation exists to combine or modify these references.

For at least these reasons, Applicants respectfully ask the Examiner to withdraw the rejection since a *prima facie* case of obvious has not been established.

Evening assuming *arguendo* that Shachor and Jindal are successfully combinable (which they are not), the alleged combination does not teach or suggest all the elements in the claims. By way of example, the independent claims are amended to recite forming a state reference by mapping session information using a marshaling algorithm, mapping bytes using a hash algorithm, and mapping a digest using an encoding algorithm. All of these elements are claimed in the context of a session state information management system for forming a state reference. By complete contrast, Jindal uses words such as “marshaling” but these teachings are not in the context of forming a state reference. In other words, Jindal has nothing whatsoever to do with a session state information management system for forming a state reference. Further, Jindal does not even teach or suggest all the elements. Applicants respectfully ask the Examiner to cite specific locations in Jindal that each (1) mapping using a marshaling algorithm, (2) mapping using a hash algorithm, and (3) mapping using an encoding algorithm.

For at least these reasons, Applicants respectfully ask the Examiner to withdraw the rejection since a *prima facie* case of obvious has not been established.

### **CONCLUSION**

In view of the above, Applicants believe that all pending claims are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. 832-236-5529. In addition, all correspondence should continue to be directed to the following address:

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